Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
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International Bureau and Wireless Telecommunications Bureau Seek Focused Additional Comment in 3.7-4.2 GHz Band Proceeding	)	GN Docket No. 18-122
	)	RM-11791
	)	RM-11778
	)	

COMMENTS OF VERIZON

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I. INTRODUCTION AND SUMMARY.

As the Commission moves to repurpose 3.7-4.2 GHz ("C-Band") spectrum for 5G and other flexible-use services, some parties continue to advance positions that serve only to delay resolution and slow needed Commission action to advance national interests in the race to 5G. The *Public Notice* asks questions to flesh out any relevant legal authority regarding many of these positions,[1] and Verizon focuses here on two issues. First, T-Mobile's revised incentive auction plan proposing to include receive-only earth station registrants as participants in a reverse auction would run afoul of the Commission's incentive auction authority. Second, although the Small Satellite Operators ("SSOs") call for their "interests" to be recognized (and compensated) in any repurposing, the Commission has flexibility to impose modifications to their U.S. market access grants without mandatory compensation.

[1] *See International Bureau and Wireless Telecommunications Bureau Seek Focused Additional Comment in 3.7-4.2 GHz Band Proceeding*, Public Notice, DA 19-385 (rel. May 3, 2019).

Receive-only earth station registrants are not licensees, have no licensed spectrum usage rights to relinquish in the C-Band, and thus cannot participate in a reverse auction. While the Commission intends to protect incumbent earth stations from harmful interference as it increases the intensity of terrestrial use of the C-Band (a position Verizon supports),[2] an incentive auction does not offer recourse for earth station operators to be compensated for vacating the band. The statutory provision authorizing incentive auctions, Section 309(j)(8)(G) of the Communications Act, provides that only "licensees" may voluntarily relinquish their "licensed spectrum usage rights" in a reverse auction, yet earth station registrants are neither licensees nor hold licensed spectrum usage rights.

There are two key components of the defined term "license" in the Communications Act: (1) it must be "required" by the Communications Act or FCC rules; *and* (2) it must be for the "transmission" of energy, communications or signals by radio.[3] A receive-only earth station registration does not meet either – let alone both – of these components. First, nothing in the Communications Act requires a receive-only earth station operator to hold an authorization – and indeed, the FCC permits receive-only earth stations to operate without any FCC authorization at all. Second, a receive-only earth station does not transmit communications by radio signal, and the Commission has long held that receive-only stations are not "incidental" to transmission – if they were, the Commission concluded, then televisions and radios would also require a license. T-Mobile's arguments to the contrary are flawed.

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[2] *See Expanding Flexible Use of the 3.7-4.2 GHz Band et al.*, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 6915, 6926 ¶ 27 (2018) ("*3.7-4.2 GHz Order & Notice*"); Comments of Verizon, GN Docket No. 18-122, at 12-13 (Oct. 29, 2018).

[3] *See* 47 U.S.C. § 153(49).

Satellite operators hold only limited rights in the C-Band and the Commission can modify the U.S. market access grants of the Small Satellite Operators in this unique situation. As a general matter, C-Band space station operators have a right to interference protection from other space station operators, but no right to assert interference protection from terrestrial service at the earth station receiver. If the Commission had intended to grant space station operators an independent right to interference protection from terrestrial operations, there would be no reason to permit earth stations registrants in the 3.7-4.2 GHz band to coordinate with terrestrial stations for interference protection.

As the Commission repurposes spectrum in the 3.7-4.2 GHz band, it can impose modifications to the U.S. market access grants held by the SSOs under the very unique circumstances that exist here. To date, the SSOs deliver no traffic in the United States, have no U.S. business, and make no use of their market access rights here – despite having been authorized to operate in the United States for seven years on average (and one has held U.S. market access rights since 2005). Consistent with Section 316 license modification precedent, some modification of the SSO U.S. market access grants that would limit transmit rights to a portion of the 3.7-4.2 GHz band but still enable meaningful service would be permissible and not a "fundamental" change.

II. THE INCENTIVE AUCTION STATUTE BARS RECEIVE-ONLY EARTH STATIONS FROM PARTICIPATING IN A REVERSE AUCTION.

T-Mobile's revised incentive auction proposal to include earth station registrants as well as satellite operators in a C-Band reverse auction would violate the incentive auction statute adopted in the Spectrum Act of 2012. Only "licensees" may voluntarily relinquish their

"licensed spectrum usage rights."[4] Earth station registrants are not licensees and have no licensed spectrum usage rights to relinquish.

A. The Commission's Incentive Auction Authority, as Incorporated into the Communications Act, Uses the Existing Defined Terms of License and Licensee.

As part of the Spectrum Act, Congress authorized the FCC to hold incentive auctions to "encourage" licensees to relinquish licensed spectrum usage rights by awarding them a share of reverse auction proceeds, freeing up the spectrum so it can be repurposed for other uses in a forward auction.[5] This provision, codified as Section 309(j)(8)(G)(i) of the Communications Act, allows the FCC to:

> encourage a *licensee* to relinquish voluntarily some or all of its *licensed spectrum usage rights* in order to permit the assignment of new initial licenses subject to flexible-use service rules by sharing with such licensee a portion, based on the value of the relinquished rights as determined in the reverse auction required by clause (ii)(I), of the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection.[6]

The referenced clause (ii)(I) of Section 309(j)(8)(G) notes that in a reverse auction "a *licensee* [may] relinquish spectrum usage rights in exchange for a share of auction proceeds . . . ."[7]

Although the Spectrum Act added nearly three dozen new definitions, it did not alter the pre-existing definitions of "license" or "licensee" in the Communications Act. Under principles of statutory construction, Congress is deemed to have been aware of the FCC's prior

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[4] 47 U.S.C. § 309(j)(8)(G)(i).

[5] Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6402 (2012) ("Spectrum Act").

[6] 47 U.S.C. § 309(j)(8)(G)(i) (emphasis added).

[7] *Id.* § 309(j)(8)(G)(ii) (emphasis added).

interpretation of terms in the Communications Act, and by not redefining those terms indicated it accepted that interpretation.[8] The term "licensee" in the incentive auction provision is thus governed by those pre-existing definitions. The FCC followed this canon of statutory construction in interpreting the term "licensee" in the Spectrum Act's broadcast television incentive auction provision: "[a]lthough the Spectrum Act does not define the term 'licensee,' we interpret 'licensee' to mean 'the holder of a . . . station license,' as it is defined in the Communications Act."[9] The statutory definitions of "license" and "licensee" thus govern those terms as they appear in the incentive auction provision.

B. Receive-Only Earth Station Registrations Are Not "Licenses" under the Communications Act and Commission Precedent.

The Communications Act defines a "license" as follows: "[t]he term 'station license,' 'radio station license,' or 'license' means that instrument of authorization *required* by this chapter or the rules and regulations of the Commission made pursuant to this chapter, for the use or operation of apparatus *for transmission of energy, or communications, or signals by radio*, by whatever name the instrument may be designated by the Commission."[10]

A separate definition in the Communications Act addresses the term "transmission of energy by radio," which includes "both such transmission and all instrumentalities, facilities, and

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[8] *See, e.g.*, *Marks v. Crunch San Diego, LLC*, 904 F.3d 1041, 1052 (9th Cir. 2018) (inferring that Congress approved of the FCC's interpretation of "ATDS," or "automatic telephone dialing system," when it amended the statute underlying the FCC's rules but left the statutory definition of ATDS intact (citing *Lorillard v. Pons*, 434 U.S. 575, 580 (1978) ("Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change.")).

[9] *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6717 ¶ 353 (2014) (citing 47 U.S.C. §§ 153(30)) ("*Incentive Auction Order*").

[10] 47 U.S.C. § 153(49) (emphasis added).

services incidental to such transmission."[11] A "licensee" in turn is "the holder of a radio station license granted or continued in force under authority of this chapter."[12]

There are thus two key components of a "license": (1) it must be "required" by the Communications Act or FCC rules; *and* (2) it must be for the "transmission" of energy, communications or signals by radio.[13] A receive-only earth station registration does not meet either – let alone both – of these components. First, nothing in the Communications Act requires a receive-only earth station operator to hold an authorization, and the FCC has long permitted receive-only earth stations to operate without any FCC authorization at all. Second, a receive-only earth station does not transmit communications by radio signal (nor are receive-only stations "incidental" to transmission pursuant to the license definition).

Longstanding Commission precedent upholds the conclusion that receive-only earth station licenses and registrations are not licenses as defined in the Communications Act. In 1979, the FCC adopted a voluntary – not mandatory – licensing regime for these receive-only earth stations.[14] Under that regime, operators could voluntarily choose to apply for a license. The regime relieved operators of requirements imposed on entities that were required to hold licenses, and upon grant, operators received protection from harmful interference. No operator was required to obtain a license, however: as the FCC stated when it adopted the regime, "the

[11] *Id.* § 153(57).

[12] *Id.* § 153(30).

[13] Determining whether a receive-only earth station holds a "license" under the Communications Act does not depend on whether the authorization is labeled a "license" or a "registration," because, as the statutory definition notes, "whatever name the instrument may be designated" is not pertinent. *See id.* § 153(49).

[14] *Regulation of Domestic Receive-only satellite earth stations*, First Report and Order, 74 F.C.C.2d 205 (1979).

public interest will be served by immediate implementation of voluntary licensing for receive-only earth stations."[15] In fact, thousands of receive-only earth stations have operated without any FCC authorization (unregistered earth stations). The Commission concluded that the voluntary approach was "legally correct" after analyzing the definitions in the Communications Act as well as Section 301, as each of the relevant provisions premised licenses on the "transmission" of a radio signal.

The Commission went on to determine that receive-only earth stations not only do not transmit but are not incidental to such transmission:

> By definition, receive-only earth stations do not transmit. While it might be argued that receiving facilities are incidental to radio transmission, the full extension of that argument would be unreasonable because it would require that all television and radio receivers be licensed as well as receive-only earth stations.[16]

Thus, as the Commission concluded, "licensing of receive-only earth stations is not mandated by the Act," receive-only earth stations do not require a license, and they are not incidental to transmission.[17]

In 1991, the FCC replaced the voluntary licensing regime with a registration regime, announcing that it would "continue [our] deregulatory process by adopting rules which establish a registration program for domestic receive-only earth stations that previously were subject to our optional licensing procedures."[18] The new regime was also voluntary and provided

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[15] *Id.* at 217 ¶ 31.

[16] *Id*.

[17] *Id.*

[18] *Amendment of Part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communications Services*, First Report and Order, 6 FCC Rcd 2806, 2807 ¶ 4 (1991) (citation omitted).

registering earth stations with the same interference protection regime as existed in the voluntary licensing regime. But the Commission did not modify its 1979 determinations that receive-only earth stations do not "transmit" and their operations are not "incidental" to any transmission. That remains the law today. And the Commission does not treat receive-only registrations as licenses in the ordinary course; for example, it does not collect regulatory fees from registered receive-only earth stations based in part on the fact that a registration is not a license.[19]

In sum, both the statutory definition of "license" and the FCC's orders establishing the voluntary regime for receive-only earth stations demonstrate that 3.7-4.2 GHz receive-only earth station registrations are not "licenses" under the Act.[20]

C. Receive-Only Earth Stations Are Not Eligible to Participate in a Reverse Auction.

Section 309(j)(8)(G) establishes that only a "licensee" may voluntarily relinquish its "licensed spectrum usage rights" in an incentive auction, and because a receive-only earth station registration is not a "license" and a registrant is not a "licensee," there is no legal authority for T-Mobile's proposal to incorporate earth station registrants in a reverse auction. Put another way, the right to participate in an incentive auction encompasses only a holder of a license.

T-Mobile advances several flawed legal arguments in support of its incentive auction proposal, asserting incorrectly that receive-only earth station registrants are eligible to participate in a reverse auction. First, it argues that "earth station registrations are licenses under the Communications Act," but bases that argument on a quote of the statutory definition of license

[19] *See Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, Report and Order, 10 FCC Rcd 13512, 13548 ¶ 105 (1995) ("[W]e recognize that domestic receive only earth stations are no longer subject to licensing.").

[20] Verizon itself is a C-Band earth station registrant for its Fios TV head-ends, and thus has some familiarity with the nature of these registrations.

that omits the first prong of the definition – that a license is required by the Communications Act or FCC rules. Specifically, it leaves out the critical "required" language, asserting that the Communications Act "defines a 'license' as an 'instrument of authorization . . . for the use or operation of apparatus for transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission."[21] T-Mobile thus never addresses how voluntary registrations are "required" by the Communications Act or FCC rules (and they are not).

Next, it ignores FCC precedent in claiming that receive-only earth station facilities are "incidental" to the "transmission of energy by radio" to try and fit within the transmit prong of the statute. T-Mobile refers to the Communications Act's definition of "radio communications,"[22] which is not a term in the definition of "license" and is different from the definition of "transmission of energy" at issue here.[23] But it ignores the 1979 precedent that expressly rejected the notion that receive-only earth stations are "incidental" to transmission in the definition of "transmission of energy by radio."

T-Mobile then again selectively quotes the statutory license definition, claiming that even if receive-only earth stations are not "incidental," registrations "authorize the operation or use of

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[21] Letter from T-Mobile, USA, Inc., to FCC, GN Docket No. 18-122, at 2 (Mar. 19, 2019) ("T-Mobile March Letter") (emphasis omitted).

[22] *Id.*

[23] T-Mobile cites one of the FCC's analog-to-digital transition orders, which said, "[t]elevision receivers are 'apparatus' 'incidental to . . . transmission' of television broadcasts and, therefore, are within the scope of our Title I subject matter jurisdiction." *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television*, Second Report and Order, 22 FCC Rcd 8776, 8785 ¶ 16 (2007) (citations omitted). But there the FCC was interpreting the different definition in 47 U.S.C. Section 153(33) of "radio communication," not the definitions of "radio license" or "licensee," to find that it had ancillary authority to regulate TV receivers.

an apparatus for 'communications.'"[24] But the license definition does not use the term "communications" in isolation as T-Mobile purports; rather, a license is an instrument that authorizes "the use or operation for the transmission of energy, or communications, or signals by radio." And Section 153(49) does not define a license as including three distinct types of apparatus – "for transmission of energy," "for communications," or "for signals by radio" – because that tripartite interpretation makes no grammatical sense. Rather, the words "for transmission" apply to each part; the apparatus must thus be "for transmission of communications" – and a receive-only earth station by definition does not transmit. Put another way, an apparatus for the *transmission* of communications is what requires a license, not just any apparatus for communications.

Ultimately, the purpose of Section 309(j)(8)(G) also supports the argument that receive-only earth stations are not covered. The section's objective is to clear operations in a given frequency band that are transmitting on the spectrum, so that new transmissions for different types of services may be deployed. For example, in the broadcast incentive auction, only "broadcast television licensees" were eligible to participate in the reverse auction and received forward auction proceeds in return for terminating their transmissions. It would not have made sense for the term "licensee" to include television receivers, because receivers were not precluding new types of transmitters from operating on repurposed spectrum.

In the broadcast incentive auction, the Commission interpreted the term "spectrum usage rights" to mean the use of spectrum to "*transmit signals*." In other words, spectrum "usage" means signal transmission – not receipt. "Under the Communications Act, however, only a station license confers on the holder the right to 'use' the station to transmit signals. We

[24] T-Mobile March Letter at 2.

similarly interpret the term 'spectrum usage rights' in the Spectrum Act to mean the rights of a broadcaster to use spectrum pursuant to a station's license."[25] Just as Congress and the FCC never contemplated that viewers who operated TV receivers would be eligible to participate in the reverse auction, the same analysis applies here: receive-only earth stations are not eligible to participate in an incentive auction.

III. THE COMMISSION'S C-BAND REPURPOSING PLAN SHOULD RECOGNIZE THAT THE SMALL SATELLITE OPERATORS HOLD ONLY LIMITED RIGHTS.

A. Satellite Operators in C-Band Have Rights of Interference Protection from Other Satellite Operators, But No Rights Against Terrestrial Operations at Earth Station Receivers.

C-Band space station operators have a right to interference protection from other space station operators, but no right to assert interference protection from co-primary terrestrial operations at an earth station receiver. Section 25.272(a) requires "space station licensees" to coordinate transmissions with those of other satellite systems to prevent harmful interference,[26] and the Commission will not grant an application for a new co-frequency GSO space station at the same orbital location as another if there is a significant risk that the space station will cause harmful interference to an earlier authorized GSO space station.[27] These rights apply to U.S.-

[25] *Incentive Auction Order*, 29 FCC Rcd at 6718 ¶ 356. While the FCC stated that it was interpreting the broadcast incentive auction requirements in Section 6403, and thus did not need to interpret the general incentive auction requirements in Section 6402, *id.* at n.1054, the same term occurs in both provisions.

[26] 47 C.F.R. § 25.272(a).

[27] *Id.* § 25.158(b)(3).

licensed space stations and to non-U.S.-licensed space stations operating under an FCC grant of U.S. market access.[28]

Part 25 provides no independent right to space station operators in the C-Band to assert interference protection for their transmit frequencies from terrestrial fixed stations.[29] Only earth station operators may hold interference protection rights from terrestrial fixed service. Section 25.102(b) provides that earth stations generally are entitled to interference protection from fixed terrestrial stations to the reception of signals in "a co-equally shared band,"[30] and this includes the 3.7-4.2 GHz band, when earth stations have properly coordinated their operations.[31] This

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[28] *See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24114 ¶ 44 (1997) (establishing that satellite operators licensed in WTO-member countries should be treated "no less favorably" than U.S.-licensed satellite operators); *see also, e.g.*, *DIRECTV Enterprises, LLC*, Order and Authorization, 30 FCC Rcd 1790, 1793 ¶ 9 (IB 2015) (noting that an applicant for a space station license must take into account the impact of its operations on non-U.S. licensed satellites that have been granted U.S. market access in the interference analysis submitted with its application, although such analysis need only extend to the particular operations of the non-U.S.-licensed satellite that have been authorized to serve the U.S. market).

[29] This is in contrast to space station *receive* frequencies, in which satellite operators have some expectation of interference protection from terrestrial operators. *See, e.g.*, *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services*, Third Report and Order, Memorandum Opinion and Order, and Third Further Notice of Proposed Rulemaking, 33 FCC Rcd 5576, 5585 n.79 (2018) (noting that the Commission retains the authority to monitor developments and intervene to prevent unacceptable interference to satellite space station receivers from terrestrial stations in 24 GHz band if necessary); *see also* 47 C.F.R. § 2.106, n.NG65 ("In the bands 24.75-25.25 GHz and 47.2-48.2 GHz . . . [t]he Commission reserves the right to monitor developments and to undertake further action concerning interference between Upper Microwave Flexible Use Service and Fixed-Satellite Service, including aggregate interference to satellite [space station] receivers, if appropriate.").

[30] 47 C.F.R. § 25.102(b).

[31] *See 3.7-4.2 GHz Order & Notice*, 33 FCC Rcd at 6929 ¶ 37 ("An earth station applicant, prior to filing an application to register or license with the Commission, must coordinate its proposed frequency usage with existing terrestrial users and with applicants that have filed for terrestrial station authorizations . . . The coordination results *entitle the FSS earth station* to the interference protection levels agreed to during coordination, including against subsequent FS licensees.")

protection includes earth station licenses and registrations. The interference protection afforded to earth stations from terrestrial fixed stations is based on criteria established through coordination.[32] Unregistered earth stations have no expectation of interference protection from terrestrial fixed stations. If the Commission had intended to grant space station operators an independent right to interference protection of their transmissions from terrestrial fixed stations in the 3.7-4.2 GHz band, earth stations would not need to coordinate with terrestrial stations or obtain registrations at all.

The FCC, by contrast, has proposed to extend to incumbent 3.7-4.2 GHz earth stations interference protection from new 5G and other flexible-use terrestrial operations in the band.[33] Indeed, the Commission identified two goals for the 3.7-4.2 GHz proceeding: "fostering more efficient and intensive use of the 3.7-4.2 GHz band as expeditiously as possible while protecting existing operations in the band from harmful interference . . . ."[34] And the record firmly establishes that stakeholders are on board with ensuring that repurposing the band does not disrupt content distribution and that earth station operators are made whole.

(emphasis added) (citations omitted); *Deregulation of Domestic Receive-Only Satellite Earth Stations*, Second Report and Order, 104 F.C.C.2d 348, 349 ¶ 3 (1986) (stating that coordination for receive-only authorizations "provides the means for *protecting proposed earth station sites* from interference caused by terrestrial point-to-point microwave transmitters") (emphasis added) (citation omitted).

[32] *See* 47 C.F.R. § 25.131(b) ("Receive-only earth stations in the FSS that operate with U.S.-licensed space stations, or with [approved] non-U.S.-licensed space stations . . . may be registered . . . in order to protect them from interference from terrestrial microwave stations in bands shared co-equally with the Fixed Service[.]"); *id.* § 25.131(f) ("protection levels are those agreed to during coordination"); *id.* § 25.203.

[33] *3.7-4.2 Order & Notice*, 33 FCC Rcd at 6965 ¶ 27 (intending to "protect incumbent earth stations from harmful interference as [it] increase[s] the intensity of terrestrial use in the band").

[34] *Id.* at ¶ 26.

B. The FCC Can Modify the Small Satellite Operators' U.S. Market Access Grants Given the Circumstances Here.

As the Commission repurposes spectrum in the 3.7-4.2 GHz band, it has flexibility under the particular circumstances here to modify the U.S. market access grants to the Small Satellite Operators ("SSOs"). Applying the framework of Section 316 to U.S. market access grantees, as the Commission has done elsewhere,[35] the Commission can impose modifications to the market access grants to repurpose part of the 3.7-4.2 GHz band for 5G and flexible-use services and can do so without compensation.

The SSO's present unique circumstances that provide the FCC with flexibility to modify the market access grants. They deliver no traffic in the United States, have no U.S. business, and make no use of their market access rights here – even though they have been authorized to operate in the United States for seven years on average (and one has held U.S. market access rights since 2005). So, some modification of their U.S. market access grants would not be a "fundamental" change under Section 316 precedent,[36] as it would not "create a hindrance of

[35] Each of the SSOs hold non-U.S. space station licenses and U.S. market access grants. In a 2005 order modifying the spectrum reservations of two non-U.S. licensed satellite operators, the Commission explained "while we are not taking action directly under Section 316, since [the non-U.S. licensed satellite operators] do not hold Commission licenses, *we are applying the procedural framework of Section 316*, bearing in mind our [WTO] commitments to treat satellite operators licensed in [WTO member countries] . . . no less favorably than we treat U.S.-licensed satellite operators." *Use of Returned Spectrum in the 2 GHz Mobile Satellite Service Frequency Bands*, Order, 20 FCC Rcd 19696, 19697 n.3 (2005) (emphasis added); *see also id*. at 19704 ¶ 18.

[36] *Community TV, Inc. v. FCC*, 216 F.3d 1133, 1140-41 (D.C. Cir. 2000) (citing *MCI Telecommunications Corp. v. AT&T*, 512 U.S. 218, 228 (1994)); *see also, e.g.*, *Cellco Partnership v. FCC*, 700 F.3d 534, 543 (D.C. Cir. 2012) ("[T]he Commission's section 316 power to 'modif[y]' existing licenses does not enable it to fundamentally change those licenses.") (citation omitted).

service for its clientele"[37] or even "impose minimum disruption" on services.[38] And the modified market access would still have substantial opportunities to provide service in the future.[39]

Given the particular circumstances here, the Commission has the flexibility to modify the SSOs' U.S. market access grants.

IV. CONCLUSION.

Verizon encourages the Commission to swiftly move forward and, applying the findings demonstrated above, adopt a framework for the rapid repurposing of 3.7-4.2 GHz spectrum.

Respectfully submitted,

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[37] *California Metro Mobile Communications, Inc.*, Memorandum Opinion and Order, 17 FCC Rcd 22974, 22977 ¶ 12 (2002); *see also California Metro Mobile Communications, Inc. v. FCC*, 365 F.3d 38, 46 (D.C. Cir. 2004) (affirming Commission decision finding that "the modification would leave CMMC's other frequencies intact and that, to the extent it caused a 'minor' disruption in CMMC's operations, it was 'nonetheless in the public interest, as required by [s]ection 316.'") (citation omitted).

[38] *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 14969, 14973 ¶ 2, 15011 ¶ 64, 15014 ¶ 69 (2004), *recon*., 19 FCC Rcd 25120 (2004), *rev. denied sub nom. Mobile Relay Assocs. v. FCC*, 457 F.3d 1 (D.C. Cir. 2006).

[39] Even the CBA members, who do deliver C-Band traffic in the United States, acknowledge that today's existing C-Band traffic can be accommodated more efficiently in a portion of the 3.7-4.2 GHz band, thus freeing up spectrum for other uses.